FARAD CONTINUTION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Appeal From Order No.7 of 2006
with
Civil Application No.l2 of 2006

Office Notes,Office Memorandum of Coram appearence,Court's Orders & Directors and Registrar's Order	Court or Judge's Order

Mr Santosh Shetty for appellants
Mrs Joglekar for BMC

CORAM; A.M.KHANWILKAR J.

DATED 30.l.2006

P.C.

. Heard the learned counsel for the parties. It is not possible to depart from the conclusion reached by the trial court while considering the issue of prima facie case made out by the plaintiff. The plaintiff only relies on assessment bill which was dated l.4.l970. No document has been produced by the appellant-plaintiff to show that the suit structure was erected after obtaining prior permission of the authorities. There is also no document to support the

position that the suit structure came in existence prior to the datum line l.4.l962. The first assessment would, however, indicate that it was put up in l970. The other documents which were pressed into service cannot establish authorisation of the structure as has been rightly found by the trial court. Taking over all view of the matter it is not possible to take a view different than the one taken by the trial court at this interlocutory stage. Hence this appeal ought to fail.

. However, while dismissing this appeal I am inclined to accede to the request of the appellant that the appellant be permitted to apply to the appropriate authorities for regularisation of the suit structure, if permissible under law. The appellant undertakes to make such representation to the Executive Engineer (Building Proposal), Western Suburb Kandivli within a period of three weeks from today and produce

relevant documents in support for regularisation. If such a representation is not filed within time it is open to the respondents to proceed against the appellant in relation to the suit structure in accordance with law. However, if such a representation is made in time the competent authority may decide the same as expeditiously as possible preferably within three weeks from the date of receipt of the representation. Till such time no precipitative action be taken as regards the suit structure. Appeal as well as the application disposed off accordingly.